

Application No.: 09/858,035

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Docket No.: 297912001911

REMARKS

At the outset, Applicants note with appreciation the Examiner's indication of allowable subject matter in claims 54 and 55. By virtue of this response, claim 41 has been amended, support for which can be found, for example, in Figures 5-14 of the drawings and in the accompanying description in the specification on pages 13-14. Amendment of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. Claims 47-48 have been canceled. Applicant expressly reserves the right to pursue these canceled claims in continuation and/or divisional applications. No new matter has been added.

Double Patenting

Claims 41, 42 and 44 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of USPN 6,264,684. Applicants attach herewith a terminal disclaimer to overcome this rejection and therefore respectfully request withdrawal thereof.

Rejections under 35 U.S.C. § 112

Claims 47 and 48 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. These claims are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By this amendment, Applicants have canceled claims 47 and 48 and therefore respectfully request withdrawal of these rejections.

Rejections under 35 U.S.C. § 102 and 103

Claims 41, 42, 44 and 45 stand rejected under 35 U.S.C. 102(e) as being anticipated by Pinchuk et al (USPN 5,968,091) or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Pinchuk et al. alone. Claim 46 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Pinchuk et al. in view of Dotter (USPN 4,503,569). Claims 47-53 and 56 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pinchuk et al. in view of Lee (USPN 5,123,917). Applicants respectfully traverse these rejections in view of the claim amendment made herein.

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More specifically, none of the cited art discloses, teaches or suggests an endoluminal prosthesis, comprising an elongate support wire member joined along an entire length thereof to at least one surface of a strip of polymer cladding, the joined support wire member and polymer cladding being helically wrapped into an open cylindrical structure such that adjacent windings of the polymer cladding have overlapping regions that are bonded to one another, as claimed. Therefore, Applicants respectfully request withdrawal of these rejections.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no 297912001911. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

Todd W. Wight

Registration No.: 45,218

MORRISON & FOERSTER LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024
(949) 251-7189

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